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Commissioner  
2 MARY ANN SMITH  
Deputy Commissioner  
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Counsel  
5  
6 Department of Financial Protection and Innovation  
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10 BEFORE THE DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION  
OF THE STATE OF CALIFORNIA

11 In the Matter of:

12 THE COMMISSIONER OF FINANCIAL  
13 PROTECTION AND INNOVATION,

14 Complainant,

15 v.

16 ANDREW L. PENN,

17 Respondent.

FINAL ORDER LEVYING  
ADMINISTRATIVE PENALTIES AND  
ANCILLARY RELIEF

(Corp. Code §§ 25252 and 25532)

18  
19 The Commissioner of Financial Protection and Innovation (Commissioner) finds that:

20 **I.**

21 **STATEMENT OF FACTS**

22 1. At all relevant times herein, Andrew L. Penn (Penn), is and was a California resident,  
23 located at 26608 Sunflower Court, Calabasas, California 91302, conducting business by telephone at  
24 (818) 427-5634 and by email at Andrewdarci@gmail.com.

25 2. Beginning in or about November 2019, Penn offered and/or sold securities, in the form  
26 of Private Investment Agreements - investment contracts - in California through telephone calls and  
27 email correspondence.

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1           3.       The securities were offered or sold in this state in issuer transactions. The Department  
2 of Financial Protection and Innovation has not issued a permit or other form of qualification  
3 authorizing any person to offer or sell the above-described securities, in this state.

4           4.       Penn provided investors with a “Private Investment Agreement” that indicated that he  
5 would use the proceeds from the sales of these securities to acquire, hold, and sell artworks.

6           5.       Penn sold these securities to at least six investors, residing in California and  
7 elsewhere, in at least 12 separate transactions, raising at least \$622,275.00.

8           6.       Corporations Code<sup>1</sup> section 25110 prohibits the offer or sale of unqualified, non-  
9 exempt securities in issuer transactions in the State of California. The securities offered and sold by  
10 the Penn are subject to qualification under the CSL. These securities were offered or sold in this state  
11 in issuer transactions. The Department has not issued a permit or other form of qualification  
12 authorizing any person to offer or sell these securities in this state. The offer or sale of these securities  
13 is not exempt.

14          7.       In connection with the offers and sales of these securities, Penn made, or caused to be  
15 made, misrepresentations of material fact to investors and potential investors, including that:

16           a.       The investment was “Fully Guaranteed” with a “guaranteed return” of “40%  
17 over a term of 19 months” or “guaranteed return of 22.8% - term ending the end of February 2023;

18           b.       The investor would receive semi-annual payments;

19           c.       The investment had “Zero Risk; and

20           d.       The client had sole discretion “to determine how the proceeds are allocated,” at  
21 the end of the contracted term.

22          8.       In fact, none of these statements were true. At least five of the investors never received  
23 any payments. One investor did receive a portion of the original deposit after asking for a refund but  
24 received no profits. At least six investors have made multiple requests for a refund from Penn but  
25 have been unsuccessful.

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28 <sup>1</sup> Unless stated otherwise, all section references are to the California Corporations Code.



1           15.     Based on the foregoing findings of fact, as set forth fully above in paragraphs 1-10,  
2 Penn willfully violated Corporations Code section 25110 by offering the above described securities in  
3 California in issuer transactions without a permit or other form of qualification from the Department  
4 authorizing any person to offer or see these securities in the form of promissory notes.

5           16.     Also based on the foregoing findings of fact, as set forth fully above in paragraphs 1-  
6 10, Penn willfully violated Corporations Code section 25401 by making untrue statements or  
7 omissions in association with the offer and sale of securities in the form of promissory notes in  
8 California and elsewhere, to at least five investors.

9           17.     WHEREFORE, good cause showing, and pursuant to Corporations Code section  
10 25252, the Commissioner enters this final order levying administrative penalties in the amount of  
11 \$148,500.00 against Penn, as follows:

- 12           a) First Violation: \$1,000.00 for the first violation of Corporations Code 25110;
- 13           b) Additional violations:
  - 14               i. \$2,500.00 for the remaining 11 sales of securities;
  - 15               ii. \$2,500.00 for the misrepresentation in paragraph 8a, made in at least 12
  - 16                transactions;
  - 17               iii. \$2,500.00 for the misrepresentation in paragraph 8b, made in at least 12
  - 18                transactions;
  - 19               iv. \$2,500.00 for the misrepresentation in paragraph 8c, made in at least 12
  - 20                transactions; and
  - 21               v. \$2,500.00 for the misrepresentation in paragraph 8d, made in at least 12
  - 22                transactions.

23           The administrative penalties levied in the amount of \$148,500.00 shall be due and payable  
24 to the Department of Financial Protection and Innovation within 30 days of service of this final  
25 order and sent to the attention of: Accounting, Department of Financial Protection and Innovation,  
26 located at 2101 Arena Boulevard, Sacramento, California 95834. Notice of the payment shall  
27 concurrently be sent to the attention of: Ryan M. Cassidy, Counsel, Enforcement Division, 2101  
28 Arena Boulevard, Sacramento, California 95834.

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**III.**

**FINAL ORDER FOR ANCILLARY RELIEF**

18. Section 25532 authorizes the Commissioner to seek ancillary relief on behalf of any person injured by violations of any provision of the CSL and any rules promulgated thereunder.

19. Based on the foregoing findings, the Commissioner finds that Penn offered and sold by means of fraud, unqualified, nonexempt securities in California, in the amount of at least \$622,275.00, in violation of sections 25110 and 25401.

20. WHEREFORE, good cause showing and pursuant to section 25532 the Commissioner enters this final order for ancillary relief, in the form of restitution, in the amount of \$622,275.00 against Penn, due and payable 30 days from the date of this order.

**IV.**

**CONCLUSION**

21. NOW THEREFORE, GOOD CAUSE SHOWING, IT IS HEREBY ORDERED that Andrew L. Penn pay administrative penalties in the amount of \$148,500.00 and restitution in the amount of \$622,275.00, due and payable 30 days from the date of this order.

22. The Commissioner finds that each of the above enumerated matters provide an independent basis under sections 25252 and 25532, justifying the issuance of an order levying administrative penalties in the amount of \$148,500.00 and ordering restitution in the amount of \$622,275.00 to Penn’s investors, due and payable 30 days from the date of this order. Based upon the foregoing, the Commissioner finds it is in the public interest to enter this final order.

23. This Final Order Levying Administrative Penalties and Ancillary Relief is the final decision of the Commissioner, pursuant to section 25252 and 25532. This order is effective immediately.

DATED: November 14, 2024  
Sacramento, California

CLOTHILDE V. HEWLETT  
Commissioner of Financial Protection and Innovation



By: \_\_\_\_\_  
MARY ANN SMITH  
Deputy Commissioner  
Enforcement Division